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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,781	10/23/2003	Changyong Lee	4220-123 US	7161
7590 01/16/2007 Diane Dunn McKay, Esq. Mathews, Collins, Shepherd & McKay, P.A. Suite 306 100 Thanet Circle Princeton, NJ 08540			EXAMINER MAHAFKEY, KELLY J	
			ART UNIT	PAPER NUMBER
			1761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/691,781	Applicant(s) LEE ET AL.	
	Examiner Kelly Mahafkey	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendments made October 23, 2006 have been entered.
Claim 4 remains pending.

Claim Rejections - 35 USC § 112

The previous 112 rejections of claims 1-3 have been withdrawn in light of applicant's amendments.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The rejection of claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by Meyer or, in the alternative, under 35 U.S.C. 103(a) has been withdrawn in light of applicant's amendments.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komatsu et al. (US 3892058) in view of Meyer.

Komatsu et al. (Komatsu) teaches of a process for high temperature and high pressure short time sterilization in plastic packaging (Abstract). Komatsu teaches that the process is to include a temperature of 130-160C, high pressure, and a sterilization time of 30 seconds-15 minutes. Komatsu teaches of aseptically and hermetically sealing and packaging the final product (Column 10 lines 42-67, Column 11, Column 12 lines 1-22, and Column 15 lines 34-60). Komatsu teaches that the process and packaging are to be utilized for partially or fully cooked food articles that are intended to be highly preservable and that enzymatically brown and lose natural colors, flavor, and texture upon conventional heat sterilization processes (Column 11 lines 7-12, Column 17 line 63 through Column 18 line 36). Note: Claim 4 recites a sterilization step, which occurs 4-10 times repeatedly for 4-8 seconds. Since the sterilization step, as instantly claimed, occurs repeatedly and without interruption, one of ordinary skill in the art would expect that the sterilization step, as instantly claimed, would be functionally equivalent to a one-time sterilization process occurring for 16 to 80 seconds, absent any clear and

Art Unit: 1761

convincing arguments to the contrary. Alternatively it would have been obvious to one of ordinary skill in the art at the time the invention was made to perform either one or many sterilization steps until the desired result was achieved, and one of ordinary skill in the art would expect both processes to yield equally effective results.

Komatsu is silent to the process as including long grain rice that has been coated and cooked in an emulsified oil solution.

Regarding the food product as long grain rice, it was well known in the art that long grain, medium grain, or short grain rice products were shelf stable products that provided an enhanced nutritional profile. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include long grain rice as the food product in the shelf stable package as taught by Komatsu. One would have been motivated to do so in order to gain the health benefits of the shelf stable product, long grain rice, such as a food product with an enhanced nutritional profile.

Regarding the rice as coated and cooked in an emulsified oil solution, Meyer teaches that the partially or fully cooked rice is soaked in water and advantageously coated with emulsified oil to provide a full moisture shelf stable product with outstanding organoleptic properties. Refer specifically to Abstract, Column 1 lines 29-31 and 55-67, and Column 2 lines 1-26. Meyer teaches that the emulsified oil can be added to the rice at a process step before packaging and that the rice can be cooked with the emulsified oil (Column 3 lines 7-9 and 27-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the process of coating the rice in emulsified oil in view of Meyer. One would have been motivated to do so in order to gain the benefits of an oil emulsion coating on rice, such as a product with outstanding organoleptic properties. Regarding the rice as cooked in an emulsified oil solution, applicant is reminded that a recitation of the method of making the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. Although the reference does not explicitly teach cooking the rice in emulsified oil before packaging, the references teaches that the rice can be cooked with the emulsified oil solution after

Art Unit: 1761

packaging, and thus the claimed invention would have been obvious, absent any clear and convincing evidence and/or arguments to the contrary.

Response to Arguments

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection as necessitated by applicant's amendments.

Applicant's arguments regarding the references of record, have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the instant case, applicant individually attacks the Komatsu reference alone, without considering the 103 combination of references (i.e. Komatsu in view of Meyer).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., removing water from the rice before sterilization) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant's arguments concerning the sterilization steps and cooking of the rice with an emulsified oil solution, applicant is referred to the new rejection above, which addresses these limitations.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


Art Unit: 1761


mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Mahafkey whose telephone number is (571) 272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kelly Mahafkey
Examiner
Art Unit 1761


KEITH HENDRICKS
PRIMARY EXAMINER